

FILED

OCT 02 2020

Clerk, U.S. District Court
District Of Montana
Great Falls

John Hartsoe
P.O. Box 487
St. Ignatius MT
59865

United States District Court, District of Montana
Great Falls Division

John Hartsoe, Plaintiff

CV-20-89-GF-JTJ

Order Issued by
deceased Judge C.B.
McNeil Issued on
August 29th 2011

Collateral attack
on "Fraud upon
Court"

Comes now John Hartsoe pro se submits
the following

That this court look at all the
evidence, documents, affidavits and the
facts, case law and rule of this
Order issued by C.B. McNeil was
"Fraud upon the court".

Under federal courts equity jurisdiction,
Plaintiff invokes "equitable remedial
right".

Rule 60 Relief from judgement or
Order U.S.C.A. Federal rules of civil
procedure Title VII judgement.
Reasonable time criterion of this rule
governing setting aside void judgement
means, in effect no time limitation.
Since void judgement is no judgement,
Court that entered void judgement may
vacate it at any time.

Fraud on the court is one of the
most serious violations that can occur
in a court of law. If fraud on the
court occurs, the effect is that the
entire case is voided or cancelled.
Any ruling or judgement that the court
has issued will be void.

For the official who acted in fraud
upon the court, they may very well
be required to step down from their
position and may even be subjected
to criminal consequences like a fine
or a jail sentence. It could also
result in other serious consequences,
such as an attorney being disbarred,

or a judge being removed from office.

Bullock v. United States 763 F. 2d 1115, 1121 (10th Cir 1985) the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself..."

Under rule 60(B) because a void judgement can never acquire validity through leches.

See Crosby V. Bradstreet Co. 312 F. 2d 483 (2nd Cir) Cert denied 373 U.S. 911, 83 S.Ct. 1300 36 F. Ed 2d (1963)

where the court vacated a judgement as void 30 years after entry. See also Marquette Corp. V. Triester 234 F. Supp (E.D.S.C. 1964) where the court expressly held that Clause Rule 60(B)(4) carries no real time \$ limit.

Kocher V. Dow Chemical Co. U.S.C.A.
8th Dist (1997)... or "Plain Usurpation of
Power." So as to render judgement void
from its inception.

Windsor V. McVeigh. S. Ct (1876)
... "jurisdiction" is the right to hear and
determine, not to determine without hearing.

Fuentes v. Shevin S.Ct. (1972) - 407 U.S. 67, 92 S.Ct (1983)... (3)(4) The constitutional right to be heard is a basic aspect of duty of government to follow in a fair process of decision making, when it acts to deprive a person of his possessions... Central meaning is that parties whose rights are to be affected are entitled to be

heard

U.S. v. Scheffer (1998) 523 U.S. 303, 118 S.Ct. 1261 ... We break no new ground in observing that an essential component of procedural fairness is an opportunity to be

heard

Dusenberry v. U.S. (2002) 534 U.S. 161, 122 S.Ct. 694

"The fundamental requisite of due process of law is the opportunity to be

heard

"Plain Usurpation of Power"

Cox v. Burke, 706 S.W.2d 43,47
(filed 5th D.C.A 1998)

The requisite fraud on the court occurs where, "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense"

Fifth amendment to U.S. Constitution
"No state shall deprive any person of life, liberty or property, without due process of law"

(Applies to all states)

Procedural due process. State must observe procedural requirements. An individual must be given a meaningful opportunity to be heard before the state deprives him of protected interest.

So this case law clearly shows that John Hartsoe had a constitutional right to be heard.

John Hartsoe was not allowed to attend because John Hartsoe "need to ask permission to attend".
See Att(2).

"Plain Usurpation of Power"
See Attachment(4)

John Hartsoe not present

See affidavit Lilie Morris, James Hartsoe
Clearly Judge Mc Neil knew main defendant
John Hartsoe was not there.

In all the time through my illegal incarceration
never did the issue of "ask permission to
attend" come up in any of my ~~so~~ other
court proceedings.

Upon notice of date of hearing John
Hartsoe put in a Inmate request with
date of hearing and always came
back "done".

John Hartsoe is only asking this court to determine if "fraud upon the court" is the issue brought forth.

Not an appellate review, plain simple whether John Hartsoe's right to appear and defend, right to be heard, right to have his day in court was ignored.

The facts are clear "unconscionable scheme" by Judge C.B. McNeil and attorneys Clinton Fischer and Casey Emerson

Under 18 U.S.C. § 241 Conspiracy against rights -

If two or more persons conspire to injure, oppress . . .

Oppression: an unjust or excessive exercise of power; as a: unlawful, wrongful, or corrupt exercise of authority by a public official acting under color of authority that causes a person ~~harm~~ harm.

Clearly the acts to proceed on with this hearing without defendant John Hartsoe by Judge Mc Neil and Fischer, Emerson

as officer of the court is very ~~oppressive~~
~~over oppressive~~

and for Lilie Morris to ask Judge
McNeil where John Hartsoe was. And
for his answer to be "He doesn't need to be here"
both attorneys should of stopped the
proceedings as "officers of the Court".

Kupfer Man V. Consolidated Research and
Manufacturing Corp. 459 F.2d 1072 (2nd Cir 1972)

"While an attorney should represent his client
with singular loyalty that loyalty obviously
does not demand that he act dishonestly
or fraudulently; on the contrary his loyalty
to the court, as an off there of,
demand integrity and honest dealings with
the court, and when he departs from
that standard in the conduct of a case,
he perpetrates a fraud upon the Court"

For Attorneys Fischer, Emerson to proceed
on like this was just an every day
hearing knowing defendant Hartsoe was not
present and hearing judge Mc Neil state
"He doesn't need to be here".
Clearly Shows there part on this

"Fraud upon the Court"

Estelle V. Gamble, 429 U.S. 97, 106, 975 ct
285, 50 L.Ed. 251
United States V. Day, 969 F.2d. 39, 42
(3rd Cir 1998) (holding pro se petition cannot
be held to same standard as pleadings by
attorneys)

Then U.I.N.S., 58 Sapp 2d 422, 429 (DNJ 1999)
Moreover, "the court is under duty to examine
the complaint to determine if the allegations
provide for relief on any possible theory"

Noel V. Hall, 341 F.3d 1148, 1164 (9th Cir 2003)

a federal plaintiff asserts as a legal wrong
an allegedly illegal act or omission by an
adverse party, Rooker-feldman does not bar
jurisdiction"

Plaintiff is alleging the illegal act of
"Fraud upon the Court"

When a litigant can prove that an officer of the court fraudulently coerced or improperly influenced the impartial nature of the court, "Fraud on the Court" can be established"

Cleary Affidavits by Lili Morris, James Hartsoe and Court Minutes show that defendant John Hartsoe Not Present.

Because judge McNeil stated to Stacey Tew that John Hartsoe "Need to ask permission to attend"

and the affidavits point out that John Hartsoe "Didn't need to be there"

"Plain Usurpation of Power"

So the plain, simple request to this court is there "Fraud upon the Court"

If Not Then this court (judge Morris) explain to John Hartsoe, why his civil right to appear and defend was denied. Why he had to get permission to attend. Why a one sided hearing is legal

The U.S. Supreme Court stated, only in the absence of fraud is res judicata allowed.

So again issue here "Fraud upon the Court"¹¹

John Hartsøe was, purposely kept out of his day in court by corrupt Judge G.B. McNeil and not allowed to present any kind of defense. NEVER question witnesses NEVER cross examine plaintiff NEVER allowed his day in court.

TRYAANY

Honesty and Integrity is all John Hartsøe expects

Done this 1st day of October
2020

466-2394978

~~John Hartsøe~~
John Hartsøe
P.O. Box 487
St. Ignatius MT
59865

Pagell

Attn:

DAWSON COUNTY ADULT DETENTION / CORRECTION FACILITY
INMATE SPECIAL REQUEST FORM

DATE COMPLETED: August 23-11Please Contact: S. Tew Lawyer _____ Minister _____ Haircut (when available) _____NAME: HartsoeAO#/CF# 3004153 POD/CELL B-46 Accounting _____ Check Release Date _____ Special Request _____

Inmate comment: Wednesday 24 at 10:00 I have a hearing in Polson
 I assume over Video Conference. I need to talk to
 my witnesses prior to conference 9:30 - If you could call
 360-609-2742 and leave a message # to call (or reg)

FOR OFFICIAL USE ONLY

Rev. 8-06

The person you wanted called was contacted _____

Your request is referred to _____ by _____

Comments: Mr. Hartsoe, I contacted the Court who stated that you need to ask permission to attend and you need to make the arrangements for this hearing. (due to being incarcerated that is not possible). They also stated that these arrangements cannot be made by a third party the day before. Due to the time limit and circumstances you will not be

Negligence



Attachment (4)

DV-10-353

Donna F. Hartsoe, Plaintiff

-vs-

John L. Hartsoe, et al., Defendants

MINUTE ENTRY

This matter before the Court on plaintiff's motion summary judgment and foreclosure. Plaintiff is present with counsel Clinton J. Fischer. John Hartsoe not present. James Hartsoe present pro se.

Plaintiff calls: James Hartsoe is sworn and testifies.

Doña Heisel is sworn and testifies, direct, Plaintiff's Exhibit's 4, 3, 1, 2, 5; & 6 are offered and admitted, cross, no re-direct. Witness may step down.

Plaintiff rests.

Defendant calls: James Hartsoe resumes the stand still under oath, cross, no direct. Witness may step down.

Defendant calls: Lillie Morris is sworn and testifies, direct, no cross. Witness may step down.

Court will take the motion under advisement.

Done this 24th day of August, 2011 with the Honorable C.B. McNeil presiding.

Lyn Fricker
Clerk District Court
By: Mary Asper, Deputy
Cr: bm

Cc: Clinton Fischer
John Hartsoe
James Hartsoe

John Hartsee
P.O. Box 238
St. Ignatius MT 59865

Attachment (Affidavit)

Montana Twentieth Judicial District Court

Donna Heisel - Plaintiff
John Hartsee, James
Hartsee, Lilie Morris

Case NO-10-353
Affidavit of
Lilie Morris

Comes now Lilie Morris, and being
first duly sworn upho upon her oath
deposes and says.

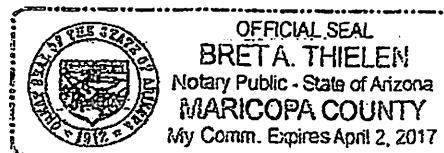
I. That at the summary judgement hearing
which I attended, I ask judge C.B.
McNeil where John was (Marion John Hartsee)
His reply was that "He didn't need to
be here".

Father affiant sayeth not.

Lilie Morris

Lilie Morris

state of AZ county of Maricopa
subscribed and sworn before me
this 13th day of December, 2013
notary Bretta ThieLEN
my commission expires: 4/2/17



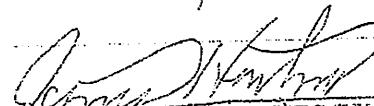
Affidavit of James Hartsoe

Comes now James Hartsoe and being first
uly sworn upon his oath deposes and says.

At the summary judgement hearing which I
(James Hartsoe) attended. Lile Morris asked
Judge C.B. McNeil "Where's John", meaning
John Hartsoe. Judge McNeils reply, "He doesn't
need to be here". A little later Lile Morris
ask Judge McNeil if John (meaning John Hartsoe)
was going to be on the Television, (meaning
video conference) again Judge McNeil
stated. "He doesn't need to be here"

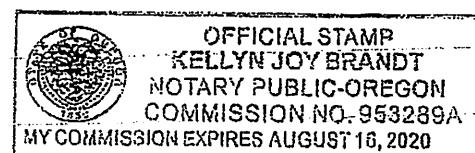
This Took Place on August 24th 2011

Further affiant sayeth not



James Hartsoe

7/23/2018



Certificate of Acknowledgement

State of
County of

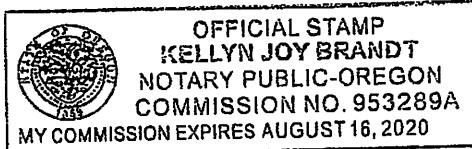
On July 23rd 2018, before me, Kellyn Brandt
(date) (notary)

personally appeared, James Michael Hartse
(signers)

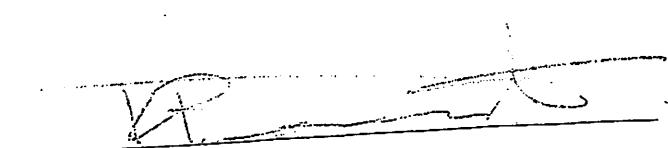
personally known to me -- OR --

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal



(seal)


(notary signature)

